

## **REMARKS**

Claims 1 – 19 are pending in this application.

Claims 1 – 19 have been rejected.

Claim 20 – 23 have been canceled.

Claims 1 and 10 are currently amended.

### **Entry of Amendment**

Entry of this amendment under the provisions of 37 C.F.R. § 1.116(b)(1), amendment after final, is respectfully requested because the amendment presents the claims in better form for appeal.

### **Advisory Action**

This amendment is submitted within two months of the mailing date of Office Action, made final, mailed January 26, 2009. As such, an Advisory Action is respectfully requested under the provisions of MPEP § 706.07(f).

### **Amendments to the Claims**

Claims 1 and 10 have been amended to clarify the claims by positively reciting that the comparison occurs after the collection of the second events, the result of which comparison is utilized in the generation of the updated template. Claim 10 has been further amended to clarify the claim by reciting that the comparison occurs after the collection of the second selected events. These amendments are supported at page 22, lines 1 – 24 and throughout the specification. No new matter has been added.

### **Rejections Under 35 U.S.C. § 112**

Claims 10 – 18 have been rejected under 35 U.S.C. § 112, first paragraph, as failing to comply with the written description requirement. It is respectfully submitted that in view of the amendment to claim 10 detailed above that the grounds for this rejection have been cured and that the rejection should be withdrawn.

## **Rejections Under 35 U.S.C. § 102**

Claims 1 – 19 have been rejected under 35 USC § 102(b) as being anticipated by U.S. Patent Publication No. 2002/0183637 (“Kim et al ‘637”). These rejections are respectfully traversed.

Kim et al ‘637 discloses a normal cardiac rhythm template generation system and method. Cardiac signals are sensed, fiducial points are lined up, and a template is generated that is intended to be representative of a single cardiac beat (paragraph [0007]). Subsequently detected beats are utilized to confirm that the template is still representative of the patient’s cardiac beats (paragraph [0008]). While data indicative of cardiac signals, such as RR intervals, are stored (paragraphs [0049] and [0071]), Kim et al ‘637 specifically discloses in two locations that multiple beats are not stored because analysis is conducted on a beat-by-beat basis (paragraphs [0082] and [0104]).

By contrast, claims 1 and 10, as amended, recite collecting the second selected events and then comparing the second selected events with the current template. As noted above, Kim et al ‘637 specifically discloses that multiple beats are not stored and thus Kim et al ‘637 cannot show, disclose or suggest that the comparison with the current template occurs after the collection of the second selected events. Moreover, Kim et al ‘637 specifically recognizes the limitations of conducting a beat-by-beat analysis – if the analysis of the current beat is not finished, the subsequent beat may be skipped (paragraph [0075]). If enough beats are skipped then the template update is aborted until the next update time, but it is preferable that every beat is utilized. As such, while Kim et al ‘637 recognizes problems created by beat-by-beat analysis, Kim et al ‘637 does not recognize the solution to the problem offered by the subject matter of claims 1 and 10, as amended.

Kim et al ‘637 does not show, disclose or suggest all of the subject matter of claims 1 and 10, as amended, and instead teaches away from the subject matter of claims 1 and 10. Thus, it is respectfully submitted that the rejections of claims 1 and 10 under 35 USC § 102(b) as being anticipated by Kim et al ‘637 are improper and should be withdrawn.

Claims 2 – 9 and 19 depend from claim 1 and claims 11 – 18 depend from claim 10, and as such incorporate all of the subject matter of the claims from which they depend. In addition, claims 2 – 9 and 11 – 19 recite additional patentable subject matter. Because the rejections of claims 1 and 10 are improper, and because of the additional patentable subject matter, it is respectfully submitted that the rejections of claims 2 – 9 and 11 – 19 under 35 USC § 102(b) as being anticipated by Kim et al '637 are improper and should be withdrawn.

### Summary

In view of the amendments made and the arguments presented, claims 1 – 19 should be allowable, this application should be in condition for allowance and a notice to that effect is earnestly solicited.

### Correspondence

**All correspondence should continue to be directed to:**

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Respectfully Submitted,

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